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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/514,033	02/25/2000	Donald L. Brodigan	1589 (USW0563PUS)	7568

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DENVER, CO 80202

EXAMINER

SHANG, ANNAN Q

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 08/14/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/514,033

Applicant(s)

BRODIGAN ET AL.

Examiner

Annan Q Shang

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by **Laubach et al (6,081,533)**.

As to claim 1, note the **Laubach et al** reference figures 1 and 5, a method and apparatus for an application interface module in a subscriber terminal unit and further disclose a method for providing personalized programming over a data path, the data path extending between a service provider and a set top box, the service provider being connected to a data network and having an address. The claimed method comprising...is met as follows: the Head End Digital Communications Controller (HCX) 103, establishes a communication path between Fiber Terminal (FT) 205 "a broadband digital terminal" and the Subscriber Terminal Unit (STU) 106, where the FT 205 is connected via links 202, 203, 204 and 207 to Backend LAN/WAN packet Network 101 and ATM Network "data network," note figures 1, 2 and col. 4, lines 49-col. 5, line 9, HCX 103 at the Headend "Service Provider" receives packets data from LAN/WAN 101 and converts into ATM cells "private data packets" and sends over the ATM Network to

STU 106, note that the ATM cells contains application interface information and Headend address, which allows interactive video-on-demand (VOD) communication path (col. 4, lines 54-64 and col. 16, lines 37-64) "an impulse pay-per-view path" between the target STU(s) 106 and the Headend based on the address, note the various packet data convention between the ATM Network and LAN/WAN Packet Network 101 which enables the STU(s) 106 to communicate with any service provider on the LAN/WAN Packet Network 101.

As to claim 2, Laubach further where data packets between frames of a video transmission, note col. 16, lines 37-41, note that the ATM cells contains data packets and video data.

As to claim 3, Laubach further teaches where the VOD is prerecorded programming and transmitted on demand, note col. 16, lines 49-54.

As to claim 4, Laubach further discloses where the video transmission is real-time programming, note col. 16, lines 49-54.

As to claim 5, note the **Laubach et al** reference figures 1 and 5, a method and apparatus for an application interface module in a subscriber terminal unit and further disclose an interactive video/data system for interacting with a destination address on a network, comprising the following: the claimed "a broadcast source...is met by Headend 103, note figures 1, 2 and col. 4, lines 49-col. 5, line 9, HCX 103 at the Headend 103 "Service Provider" receives packets data from LAN/WAN Packet Network 101 and converts into ATM cells "private data packets" and sends over a private virtual channel (col. 4, lines 35-44 and col. 16, line 59-64) on the ATM Network to STU 106, note that

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the ATM cells contains application interface information and Headend address; the claimed "broadband digital terminal..." is met by Fiber Terminal (FT) 205, note col. 4, lines 65-col. 5, line 9, note that FT 205 receives ATM cells "data packets" over the ATM Network "private virtual channel" from Headend 103 or a broadcast source on the LAN/WAN packet Network 101, where the STU(s) 106 receives the ATM cells from the FT 205 and cooperates with the FT 205 and the broadcast source and enables interactive video-on-demand (VOD) communication path (col. 4, lines 54-64 and col. 16, lines 37-64) "an impulse pay-per-view path" extending from the target STU(s) 106 to the FT 205 and over virtual connection "private virtual channel" to the Headend or broadcast source at the destination address, where the data path allows application interface information to be communicated in real-time between STU(s) 106 and the broadcast source, note the various packet data convention between the ATM Network and LAN/WAN Packet Network 101 which enables the STU(s) 106 to communicate with any service provider on the LAN/WAN Packet Network 101.

As to claim 6, Laubach further discloses, a TV Set that receives video transmission from the STU 106, note col. 16, lines 60-64.

As to claim 7, the claimed "an optical network unit..." is met by Fiber Node (FN) 211, note figure 2 and col. 5, lines 6-14, note that FN 211 is between FT 205 and STU(s) 106.

As to claim 8, the claimed "network interface device..." is met by Television Interface Module 1501 or Application Network Interface 1603, note figures 15, 16 and col. 16, line 37+, note that this interface are within the STU(s) and connects to FN 211.

Claim 9 is met as previously discussed with respect to claim 2.

As to claim 10, the claimed "a local server..." is met by Server 208.

As to claim 11, the claimed "an Internet service provider..." is inherent to the LAN/WAN data.

Response to Arguments

3. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection discussed above.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fijolek et al (6,553,568) disclose methods and systems for service level agreement enforcement on a data-over cable system.

Beser (6,442,158) discloses method and system for quality-of-service based data forwarding in a data-over-cable system.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q Shang** whose telephone number is **703-305-2156**. The examiner can normally be reached on 700am-500pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **John W Miller** can be reached on **703-305-4795**. The fax phone numbers for the organization where this application or proceeding is assigned are **703-746-5991** for regular communications and **703-746-5991** for After Final communications.

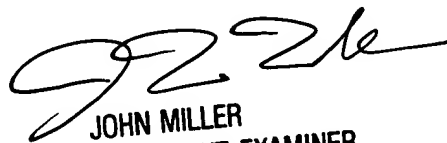
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Customer Service** whose telephone number is **703-306-0377**.



Annan Q. Shang
August 6, 2003



JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600